

DOUGLAS H. WILLSON ET AL.

IBLA 81-147

Decided February 24, 1981

Appeal from decisions of the Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers U 46839, U 46840, and U 46845.

Vacated and remanded.

1. Mineral Lands: Mineral Reservation--Oil and Gas Leases: Lands Subject to

Where land is conveyed pursuant to the Stock Raising Homestead Act, 43 U.S.C. § 299 (1976), reserving to the United States all minerals therein, and thereafter the land is reconveyed to the United States, it is error for BLM to reject an offer to lease for oil and gas on the basis that the United States does not own the minerals therein.

2. Mineral Lands: Mineral Reservation--Oil and Gas Leases: Lands Subject to

A decision to reject a noncompetitive oil and gas lease offer on the grounds that the United States does not own the oil and gas interest will be vacated where the record shows that the subject lands were patented by the State of Utah after passage of secs. 5575x and 5575x1, Ch. 107, Laws of Utah (May 12, 1919), requiring the State to reserve all coal and minerals in lands thereafter conveyed, but where the record is silent as to whether an application to purchase had been approved by the State of Utah prior to passage of secs. 5575x and 5575x1 on May 12, 1919.

APPEARANCES: Douglas H. Willson, John E. Hoffman, Brian K. Pasque, Douglas R. Willson, Salt Lake City, Utah, pro sese.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Douglas H. Willson, John E. Hoffmann, Brian K. Pasque, and Douglas R. Willson appeal from decisions of October 10, 1980, wherein the Utah State Office, Bureau of Land Management (BLM), rejected their noncompetitive oil and gas lease offers U 46839, U 46840, and U 46845. Each decision recited that appellants' offer was rejected for the reason that the oil and gas interest sought is not owned by the United States. Appellants assert that land title information from the respective county records indicates that the oil and gas interest is owned by the United States.

[1] As to U 46840, BLM records show that the land sought was reconveyed to the United States, without any minerals, in private exchange, Utah 063706, consummated in 1952. Appellants have submitted a copy of patent 1098594, issued August 24, 1938, to James Abraham, for lot 2, SW 1/4 NE 1/4 sec. 4, lot 4, SW 1/4 NW 1/4 sec. 5, lots 1 and 8, SE 1/4 NE 1/4 sec. 6, T. 24 S., R. 7 W., Salt Lake meridian, reserving to the United States all minerals pursuant to the Stock Raising Homestead Act, 43 U.S.C. § 299 (1976). Subsequently, Abraham conveyed this land by warranty deed dated December 14, 1938, to Clain Tad Paxton, and thereafter Paxton and others conveyed the land to the United States in connection with private exchange Utah 063706. Inasmuch as the United States never has relinquished ownership of the mineral estate, it was error for BLM to reject lease offer U 46840 for the stated reason. That decision must be, and is hereby, reversed.

[2] With respect to offer U 46839, appellants submitted evidence that no mineral reservation was made in any instrument relating to the W 1/2, W 1/2 E 1/2 sec. 32, T. 11 N., R. 18 W., Salt Lake meridian, from the original patent issued by the State of Utah 1/ on January 23, 1920, through several mesne owners to the warranty deed of December 6, 1945, when title was returned to the United States under private exchange SL 063386. BLM records indicate that the exchange applicant reserved all minerals in the offered land, even though no such reservation is expressed in the warranty deed.

As to U 46845, appellants have submitted evidence that the land sought in sec. 16, T. 32 S., R. 8 W., Salt Lake meridian, was patented by the State of Utah to Soren N. Jacobsen on February 7, 1922, and the land in sec. 2, same township, was patented to Joseph A. Robinson, August 9, 1923. No mineral reservation is expressed in any title document from the original State patents until the warranty deed of February 24, 1956, which returned the land title to the United States under private exchange Utah 06642. BLM records indicate that this exchange was consummated with each party thereto reserving the mineral estate.

1/ Sec. 32, T. 11 N., R. 18 W., Salt Lake meridian, was granted to the State of Utah under the grant in aid of common schools, set forth in section 6 of the Utah Enabling Act of July 16, 1894, 28 Stat. 107.

Prior to May 12, 1919, there was no statutory provision for reservation of mineral rights to the State in sales of land by the State Land Board. In Chapter 107, Laws of Utah, 1919, sections 5575x and 5575x1 (now Title 65-1-14, Utah Code Annotated 1953 (2nd Repl. Vol.)), provision was first made that all coal and other minerals in lands belonging to the State of Utah be thereby reserved to the State, and that all applications to purchase, approved subsequent to passage of this Act, shall be subject to reservation to the State of all coal and other minerals. In Spratling v. Utah State Land Board, 20 Utah 2d 342, 437 P.2d 886 (1968), the Supreme Court of Utah ruled that contracts for sale of state land entered into prior to May 12, 1919, did not come under the restrictions effective that date, even though the land patent might not be issued by the State until a considerable time after May 12, 1919.

Before determining whether the minerals in the lands sought in offers U 46839 and U 46845 were conveyed to the United States by the respective warranty deeds in the private exchanges, the date of acceptance by the State of Utah of the applications to purchase the subject lands must be ascertained. If the date of approval of any of the sales were before May 12, 1919, it would seem, under Spratling, supra, that title to the minerals passed to the State's original patentee, and thereafter to each mesne owner.

Accordingly, the decisions relating to U 46839 and U 46845 are set aside and the cases remanded for determination of the dates when the sales applications involved were first approved by the State of Utah.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are vacated and the cases remanded for further action consistent herewith.

Douglas E. Henriques

Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Edward W. Stuebing
Administrative Judge

